

**24-993 OLIVIER V. BRANDON, MS**

DECISION BELOW: 2023 WL 5500223

LOWER COURT CASE NUMBER: 22-60566

**QUESTION PRESENTED:**

Gabriel Olivier is a Christian who feels called to share the gospel with his fellow citizens. After being arrested and fined for violating an ordinance targeting "protests" outside a public amphitheater, Olivier brought a § 1983 suit under the First and Fourteenth Amendments to declare the ordinance unconstitutional and enjoin its enforcement against him in the future.

The Fifth Circuit, applying its precedent construing this Court's decision in *Heck v. Humphrey*, 512 U.S. 477 (1994), held that Olivier's prior conviction barred his § 1983 suit because even the prospective relief it seeks would necessarily undermine his prior conviction. The Fifth Circuit acknowledged the "friction" between its decision and those of this Court and other circuits. Over vigorous dissents, the Fifth Circuit denied rehearing en banc by one vote.

The questions presented are:

1. Whether, as the Fifth Circuit holds in conflict with the Ninth and Tenth Circuits, this Court's decision in *Heck v. Humphrey* bars § 1983 claims seeking purely prospective relief where the plaintiff has been punished before under the law challenged as unconstitutional.

2. Whether, as the Fifth Circuit and at least four others hold in conflict with five other circuits, *Heck v. Humphrey* bars § 1983 claims by plaintiffs even where they never had access to federal habeas relief.

CERT. GRANTED 7/3/2025